

REMARKS**I. Specification**

The Examiner requested that the Abstract be corrected to comply with the proper language and format of an abstract of the disclosure. In accordance with the Examiner's request, the Abstract has been corrected. Additional corrections have been made to paragraphs 0002, 0010 & 0031 which the Applicant believes are self-evident.

II. Claim Rejections 35 U.S.C. 5101

Claims 12-20 were rejected under 35 U.S.C. 101 on the ground that the claimed invention is directed to non-statutory subject matter. The Examiner further argued that Claims 12-20 are not limited to tangible embodiments. The Examiner noted that in view of Applicant's disclosure, specification paragraph 0040, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., disk, memory) and intangible embodiments (e.g. transmission media, carrier wave). The Examiner asserted that as such, the claims are not limited to statutory subject matter and therefore non-statutory.

The Applicant has amended claims 12-17 so that these claims are now directed to a system comprising memory a processor which is coupled to a memory and which is configured to perform steps along the lines of those set forth in method claims 1-8. Additionally, in order to provide the Applicant with adequate protection for important embodiments, the Applicant has amended claims 18-20 and added new claims 21 & 22 to claim a computer program product comprising a computer-usable data carrier storing instructions that, when executed by a computer, cause the computer to perform method steps along the lines of those set forth in method claims 1-8.

The Applicant submits that amended claims 12-20 and new claims 21 & 22 are clearly limited to statutory subject matter and comply with 35 U.S.C. 101. Accordingly, the Applicant respectfully requests that the Examiner's rejection under 35 U.S.C. 101 to claims 12-20 on the basis that the claims are not limited to tangible embodiments be withdrawn.

III. Claim Rejections Under 35 U.S.C. §103

Requirements for Prima Facie Obviousness

The obligation of the Examiner to go forward and produce reasoning and evidence in support of obviousness under 35 U.S.C. §103 is clearly defined at M.P.E.P. §2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

M.P.E.P. §2143 sets out the three basic criteria that a patent examiner must satisfy to establish a *prima facie* case of obviousness necessary for establishing a rejection to a claim under 35 U.S.C. §103:

1. some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
2. a reasonable expectation of success; and
3. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness under 35 U.S.C. §103 by the examiner (assuming there are no objections or other grounds for rejection), an Applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443 (Fed. Cir. 1992).

Thus, in order to support an obviousness rejection under 35 U.S.C. §103, the Examiner is obliged to produce evidence compelling a conclusion that each of the three aforementioned basic criteria has been met.

IV. Claim Rejections 35 U.S.C §103

APA in view of Butler

Claims 1-6, 9, 12-17 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art ('APA' hereinafter) in view of Butler et al. ('Butler' hereinafter), USPgPub 2003/0012183.

With respect to claim 1, the Examiner asserts that APA teaches method in a data-processing system for recovering data (see para. 0002, APA), comprising: identifying desired data from a command line interface displayable within a display area of a data-processing system (see para. 0003, APA); automatically saving said desired data in a memory location of said data-processing system, in response to identifying said desired data from said command line interface (see para. 0004, APA); and automatically recovering said data from said memory location of said data-processing system for display within said command line interface, if said desired data is inadvertently deleted (see para. 0004, APA). The Examiner asserts that APA does not explicitly indicate claimed recovering data with command line interface. The Examiner further argues that Butler discloses recovering data with command line interface (the subfunctions include configuration session management, alarm interface, database interface, CDR interface, and high availability (HA). The Examiner also argues that the configuration session management controls one or more sessions where a network administrator or a script emulating multiple configuration instructions is submitting configuration updates to the SX 14 using a command line interface (CLI), see para. 0064, Butler). The Examiner argues that it would have been obvious to one ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because recovering data with command line interface of Butlers

teaching would have allowed APA's system over the years embedded service functions have been highly optimized as suggested by Butler at para. 0014.

The Applicant strongly disagrees with this assessment. Paragraphs 0002 – 0004 of the present application clearly define the admitted prior art APA as being known operating systems and nothing more. There is no reference, either explicit or implicit, in these paragraphs to a method in a data-processing system for recovering data as claimed in claim 1. In particular, contrary to the Examiner's assertion, the Applicant's para. 0004 does not disclose automatically saving said desired data in a memory location of said data-processing system, in response to identifying said desired data from said command line interface and automatically recovering said data from said memory location of said data-processing system for display within said command line interface, if said desired data is inadvertently deleted, as claimed in claim 1. For convenience, para. 0004 is repeated below:

[0004] The most important asset of any data-processing system (e.g., a computer) is the data stored within the system itself. Such information or data is often stored in folders and files. If a user accidentally removes the fields from the command line, a definite technique or device does not exist for reliably recovering the deleted data. This process is different for the file removed utilizing graphical user interfaces such as, for example, a file explorer or other similar device. Files removed utilizing such file explorer devices, for example, can be recovered utilizing operation system built-in mechanisms. Such is not the case, however, when utilizing a command line interface provided by most operating systems. A solution is therefore needed, which permits users to recover data utilizing the command line interface.

Paragraph 0004 makes it clear that the operating systems of the prior art can recover files which are removed utilizing graphical user interfaces. Hence, paragraph 0004 does not disclose that the prior art systems can save desired data

in a memory location of the data- processing system, in response to identifying the desired data from said command line interface nor do they automatically recover the data from said memory location of said data-processing system for display within said command line interface, if the desired data is inadvertently deleted, as claimed in claim 1. The Examiner therefore is asserting that the APA teaches features which the specification clearly does not indicate the prior art teaches.

As the Examiner has not provided any definition of the Applicant's APA and has not explained how the APA teaches the method steps in question, the rejection is also improper in that the Examiner has not substantiated his assertions that the APA teaches such method steps. Furthermore, the Applicant submits that discussions in a specification of the problem or development of the invention in terms of the inventors own thought process, such as for example provided in parts of paragraph 0004 of the present application, is private knowledge and is not properly usable against the inventor as prior art.

Also, the Examiner's improper construction of the APA is yet further evidenced by the Examiner's own admission that the claimed recovering data with command line interface is not taught by APA, yet the Examiner is asserting that the APA teaches automatically saving said desired data in a memory location of said data-processing system, in response to identifying said desired data from said command line interface and automatically recovering said data from said memory location of said data-processing system for display within said command line interface, if said desired data is inadvertently deleted, as claimed in claim 1.

With regard to the Examiner's assertion that Butler discloses recovering data with a command line interface, the Applicant notes that Butler is directed to a telecommunications network architecture which integrates and offers services in both PSTN and IP network (see para. 0035 of Butler) and is not concerned with recovery data methods or file recovery systems at all. Furthermore, the Applicant submits that there is nothing in this reference which touches on recovering data let

alone recovering data using a command line. The only mention of a command line interface in this reference is in the paragraph cited by the Examiner (para. 0064) which, as confirmed by the Examiner himself, is for controlling network management and there is absolutely nothing in this paragraph which teaches or suggests, either explicitly or implicitly, recovering data using a command line. For this reason, the Applicant respectfully submits that there is no basis at all for the Examiner's assertion that Butler discloses "recovering data with command line interface".

Furthermore, the Examiner's reasoning as to why a person skilled in the art would have been motivated to combine Butler with the APA is that "it would have been obvious to one ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because recovering data with command line interface of Butlers teaching would have allowed APA's system over the years embedded service functions have been highly optimized as suggested by Butler at para. 0014." The Applicant does not understand the meaning of this passage and respectfully requests that the Examiner clarify the meaning of this passage so that the Applicant can respond to this assertion.

Having regard to the foregoing, the Applicant submits that the first prong of the aforementioned test which must be satisfied to establish a *prima facie* case of obviousness necessary for establishing a rejection to a claim under 35 U.S.C. §103 has not been met because there is no suggestion or motivation in Butler to modify the APA to provide a method in a data-processing system for recovering data as claimed in claim 1. Also, the Applicant submits that the third prong of the aforementioned test which must be establish a *prima facie* case of obviousness has also not be met because, for the reasons set forth above, neither APA or Butler, taken alone or in combination, teach or suggest all the claim limitations. The Applicant therefore respectfully submits that the Examiner's rejection to claim 1 under 35 U.S.C. §103 as being unpatentable over APA in view of Butler is improper

and should be withdrawn.

Regarding claim 2, contrary to the Examiner assertion that the APA teaches the claimed step of displaying said data within said command line interface, in response to automatically recovering said data from said memory location of said data-processing system (see para. 0004, APA), as already mentioned above in relation to the rejection to claim 1 under the same ground, the specification makes it clear that the operating systems of the prior art recover files which are removed utilizing graphical user interfaces. The Examiner therefore is yet again asserting that the APA teaches features which the specification clearly does not indicate the prior art teaches.

With this in mind, the Applicant submits that the first prong of the aforementioned test which must be satisfied to establish a *prima facie* case of obviousness necessary for establishing a rejection to a claim under 35 U.S.C. §103 has not been met because there is no suggestion or motivation in Butler to modify the APA to display the data within the command line interface, in response to automatically recovering the data from said memory location of the data-processing system as claimed in claim 2. Also, the Applicant submits that the third prong of the aforementioned test which must be establish a *prima facie* case of obviousness has also not be met because, for the reasons set forth above, neither APA or Butler, taken alone or in combination, teach or suggest displaying said data within said command line interface, in response to automatically recovering said data from said memory location of said data-processing system as claimed in claim 2. The Applicant therefore respectfully submits that the Examiner's rejection to claim 2 under 35 U.S.C. §103 as being unpatentable over APA in view of Butler is improper and should be withdrawn.

Regarding claims 3-6, the Applicant respectfully submits that these claims are patentable at least by virtue of their dependency on claim 1. The Applicant

therefore respectfully requests the Examiner's rejections to claims 3-6 under 35 U.S.C. §103 as being unpatentable over APA in view of Butler also be withdrawn.

With regard to original claim 9, 12-17 & 20 for the reasons already set forth above by the Applicant in support of the patentability of claims 1-6 in view APA and Butler, the Applicant respectfully submits that the rejection to these claims under 35 U.S.C. §103 as being unpatentable over APA in view of Butler is improper. In any event, claim 9 has been cancelled, claims 12-20 amended and new claims 21-22 added to claim other important features of the embodiments.

APA in view of Butler further in view of Cuccio

Claims 7, 8 , 10, 11, 18 & 19 were rejected under 35 U.S.C 103(a) as being unpatentable over APA In view of Butler and further in view of Allen Cuccio (hereinafter referred to as 'Cuccio'), USP 3,653,028.

With regard to claim 7, the Examiner argued that APA and Butler do explicitly indicate claimed recycling data [Sic]. The Examiner further argued that Cuccio discloses claimed recycling data (see col. 18, lines 18-21, Cuccio). The Examiner asserts that it would have been obvious to one ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because recovering data with command line interface of Butler's teaching would have allowed APA's system over the years embedded service functions have been highly optimized as suggested by Butler at para. 0014. Further, the Examiner argued that it would have been obvious to one ordinary skill in the data processing art at the time of the present invention to combine the teachings of the cited references because recycling data of Cuccio's would have allowed APA's and Butler's system to manipulate stored information received from a plurality of a external sources as suggested by Cuccio at col. 3, 42-43.

The Applicant does not agree with this assessment. For the reasons already

set forth above in relation to the rejection to claim 1 under 35 U.S.C. 103(a) as being unpatentable over APA In view of Butler, the APA teaches prior art systems recover files which are removed utilizing graphical user interfaces. Such prior art systems do not save desired data in a memory location of the data- processing system, in response to identifying the desired data from said command line interface nor do they automatically recover the data from said memory location of said data- processing system for display within said command line interface, if the desired data is inadvertently deleted. Thus, the APA also therefore does not teach permitting a user to specify a plurality of rules for recycling said data (said data being the desired data which is inadvertently deleted from the command line interface) in response to user input. The Examiner is yet again asserting that the APA teaches features which the specification is clearly indicating the APA does not teach.

Also, as mentioned above, the Applicant does not understand the meaning of the passage "It would have been obvious to one of ordinary skillwould have allowed APA's system over the years embedded service functions have been highly optimized as suggested by Butler at para. 0014" and respectfully requests that the Examiner clarify the meaning of this passage so that the Applicant can respond to this assertion.

With regard to the Examiner's assertion that Cuccio discloses recycling data (see col. 18, lines 18-21, Cuccio), the Applicant submits that Cuccio does not disclose or suggest recycling data inadvertently deleted from the command line interface for display on said command line interface. Cuccio is directed to a system and method for converting coded information of a communication system having a binary or digital form into an intelligible visual display on one or more television monitors which is an entirely different application to that of recovering data as claimed. Cuccio discloses a conversion process which utilizes buffer memory logic for extracting signals representing one line or row of characters from storage for display on the television monitor. The buffer memory logic retains the signals

representing a row of characters during the time a television beam is scanning through that row of text on the display. While the buffer memory logic retains the signals, it presents them to a character generator in a cyclic manner which converts these signals into video words of information. These video words are then combined into a television-like video signal along with horizontal and vertical synchronizing signals and transmitted to the display devices (see col. 3, lines 8-20 & FIG. 1 of Cuccio). Thus, Cuccio is referring to recycling data received through buffer memory to enable coded data from a communication system to be synchronized with the generation rate of the horizontal television raster lines.

The Applicant submits that a person of ordinary skill would not be motivated to combine the teachings of APA and Butler with that of Cuccio because Cuccio specifically teaches recycling data specifically for synchronizing coded data with television rasters which is an entirely different technical purpose to recycling data in the claimed method of recovering data. Furthermore, even if one of ordinary skill was so motivated to combine the teachings of APA and Butler with Cuccio and adopted the recycling technique of Cuccio for synchronizing coded data with television rasters, the skilled person would still not arrive at the method of recycling data inadvertently deleted from the command line interface, as claimed in claim 7, because the skilled person, in adopting the recycling technique from Cuccio, would evidently adopt a communication system and method for providing the coded data and for displaying the converted coded data onto a television display, and in doing so, would not provide a method of recycling data, inadvertently deleted from the command line interface, back to the command line interface.

As to the Examiner's assertion that recycling data of Cuccio's would have allowed APA's and Butler's system to manipulate stored information received from a plurality of external sources as suggested by Cuccio at col. 3, 42-43, it is difficult to see how being able to manipulate stored information received from a plurality of external sources as suggested by Cuccio has any relevance to the Applicant's claimed method or how this would be technically compatible with the Applicant's method of recycling data because, for the reasons already set forth in the preceding

paragraph, this would require modifying the APA method in such a way that the recycling would enable coded data from external sources to be converted for display on television displays and would in no way involve recycling data inadvertently deleted from a command line interface.

Having regard to the foregoing, the Applicant respectfully submits that the Examiner's rejection to claim 7 under 35 U.S.C. 103(a) as being unpatentable over APA in view of Butler and further in view of Allen Cuccio is improper and should be withdrawn. In any event, the Applicant submits that claim 7 is patentable by virtue of its dependency on claim 1.

Regarding claim 8, the Examiner's assertion that APA teaches the step of prompting said user to specify said plurality of rules for recycling said data through a display of a graphical user interface dialog (see paras. 0003, 0004, APA) is yet another example of the Examiner asserting that the APA teaches features which the specification is clearly indicating the APA does not teach. The Applicant therefore respectfully requests withdraw of this rejection to claim 8. In any event, the Applicant submits that claim 8 is patentable by virtue of its dependency on claim 1.

With regard to original claims 10, 11, 18, and 19 for the reasons already set forth above by the Applicant in support of the patentability of claims 7 & 8, the Applicant respectfully submits that the rejection to these claims under 35 U.S.C. §103 as being unpatentable over APA in view of Butler and further in view of Cuccio is improper. In any event, these claims has been cancelled or amended to cover other important features of the embodiments.

V. Claim Amendments

An amendment has been made to claim 1 further to highlight that the desired data which is inadvertently deleted is deleted from a command line of the command line interface.

Also, a clarifying amendment has been made to claim 7 to highlight that the recycled data is recycled deleted data.

As mentioned above in relation to the rejection to claims 1-12 under 35 U.S.C §101, the Applicant has amended claims 12-17 so that these claims are now directed to a system comprising memory a processor which is coupled to a memory and which is configured to perform steps along the lines of those set forth in method claims 1-8. Additionally, the Applicant has amended claims 18-20 and added new claims 21 & 22 to claim a computer program product. Support for claiming such a computer program product can be found throughout the Applicant's disclosure and, in particular, implicit and explicit reference to program products in paragraph 0040.

The Applicant's arguments set forth above in relation to the patentability of original claims 1-20 apply equally, where appropriate to amended claims 12-20 and new claims 21-22.

VI. Conclusion

In view of the foregoing discussion, the Applicants have responded to each and every rejection of the Official Action. The Applicants have clarified the structural distinctions of the present invention by amendments herein. The foregoing discussion and amendments do not present new issues for consideration and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

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